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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/701,161

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Stephen Michael Campbell

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5526

7590

06/12/2006

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EXAMINER

VO, HAI

ART UNIT

PAPER NUMBER

1771

DATE MAILED: 06/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/701,161

Applicant(s)

CAMPBELL ET AL.

Examiner

Hai Vo

Art Unit

1771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1,4-25 and 32-37 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,4-25 and 32-37 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)             | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

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1. All of the art rejections and the obviousness-type double patenting have been withdrawn in view of the present amendment. The amendment left no rooms for crystalline polypropylene which was a required component of the adhesive composition of both Zhou (US 2002/0124956) and Wang et al (US 2003/0096896). However, upon further consideration, new grounds of rejections are made in view of Suzuki et al (US 5,763,333), McCormack (US 5,843,057), Morman et al (US 6,632,212) and Karandinos et al (US 6,627,723).

***Claim Rejections - 35 USC § 102***

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

***Claim Rejections - 35 USC § 103***

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 1, 4-25, and 32-37 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Suzuki et al (US 5,763,333). Suzuki discloses a laminate comprising a nonwoven layer, a moisture permeable sheet formed from a polyolefin mixed with a particulate filler,

and an adhesive bonding the nonwoven layer and the film layer together at an add-on level between 0.5 to 7 gsm (abstract). Suzuki discloses the spunbonded nonwoven web made from a thermoplastic material, an elastomeric material (column 6, lines 65-67). Suzuki discloses the moisture permeable layer having a thickness from 15 to 40 microns (column 3, lines 45-47). Suzuki discloses an amorphous alphaolefin copolymer based adhesive containing 30 to 70% C5 hydrocarbon tackifier and an antioxidant (column 7, lines 50-65). Therefore, it is not seen that the molecular weight of about 200 Daltons or less could not have been inherently present as the same material is used for the tackifier. Suzuki teaches the APAO based adhesive comprising propylene copolymerized with 1-butene (column 7, lines 40-45). The adhesive composition has a Brookfield viscosity from 500 to 10000 cps (abstract). Suzuki does not specifically disclose a peel strength and no burn-through visual defects. However, it appears that the bonded structure of Suzuki meets all the structural limitations as set forth in the claims, a thermoplastic film, a spunbonded web and an adhesive with a composition similar to the composition of the adhesive of the present invention, it is the examiner's position that the peel strength and no burn-through visual defects would be inherently present. Like material has like property. This is in line with *In re Spada*, 15 USPQ 2d 1655 (1990). Accordingly, Suzuki anticipates or strongly suggests the claimed subject matter.

5. Claims 1, 4-6, 9-25, and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormack (US 5,843,057) in view of Karandonos (US

6,627,723). McCormack teaches a laminate comprising a nonwoven layer, a stretch-thinned film formed from a polyolefin mixed with a particulate filler, and an adhesive bonding the nonwoven layer and the film layer together at an add-on level between 0.1 to 20 gsm. McCormack discloses the spunbonded nonwoven web made from a thermoplastic material, an elastomeric material (column 4, lines 15-35). McCormack discloses the single film layer which is liquid impermeable and water vapor transmissible (column 8, lines 45-60). McCormack '057 discloses the film layer having a thickness from 0.2 to 0.6 mils (column 9, lines 10-15). McCormack discloses the amorphous polyalphaolefin (APAO) based adhesive containing a tackifier and an antioxidant (column 9, lines 62-63). McCormack '057 does not specifically disclose the amount of tackifier in the APAO based adhesive. Karandonos teaches an APAO based adhesive for use in diapers comprising 1 to 25% by weight of a tackifier and a small amount of an anti-oxidant stabilizer (column 4, lines 20-21, and column 6, lines 23-25). Karandonos teaches the APAO based adhesive comprising propylene copolymerized with 1-butene (example 10). Since the adhesive composition of Karandonos is very much similar to the adhesive composition of the present invention, the Brookfield viscosity would be inherently present because like material has like property. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use an adhesive composition as described by Karandinos for bonding the film and the nonwoven web of McCormack motivated by the desire to achieve an adhesive bond of

sufficient strength between the film and nonwoven web (see Karandino, column 5, lines 55-57). McCormack as modified by Karandinos does not specifically disclose a peel strength and no burn-through visual defects. However, it appears that the bonded structure of McCormack as modified by Karandinos meets all the structural limitations as set forth in the claims, a water-impermeable thermoplastic film, a spunbonded web and an adhesive with a composition similar to the composition of the adhesive of the present invention, it is the examiner's position that the peel strength and no burn-through visual defects would be inherently present. Like material has like property. This is in line with *In re Spada*, 15 USPQ 2d 1655 (1990).

6. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over McCormack (US 5,843,057) in view of Karandonos (US 6,627,723) as applied to claim 1 above, further in view of Suzuki et al (US 5,763,333). Neither McCormack nor Karandonos teaches or suggests the use of C5 hydrocarbon tackifier. Suzuki, however, teaches an APAO based adhesive for use in bonding a film and a nonwoven web of the diaper comprising 30 to 70% by weight of C5 hydrocarbon tackifier based on the total weight of the adhesive composition. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use an adhesive composition as described by Karandinos for bonding the film and the nonwoven web of McCormack because this tackifier is solid at room temperature and preferred for use with the APAO based adhesive.

7. Claims 1, 4-6, 9-25, and 32-37 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morman et al (US 6,632,212) in view of Karandonos (US 6,627,723). Morman teaches a laminate comprising a nonwoven layer, a stretch-thinned film formed from a polyolefin mixed with a particulate filler, and an adhesive bonding the nonwoven layer and the film layer together at an add-on level between 3 gsm (examples). Morman discloses the spunbonded nonwoven web made from a thermoplastic material, an elastomeric material, extendible and non-extendible (column 7, lines 45-65). Morman discloses the film layer and nonwoven web are each part of a single substrate (examples). Morman discloses the microporous film being liquid impermeable and water vapor transmissible (column 2, lines 30-32). Morman discloses the film layer having a thickness of less than 20 microns (column 10, lines 55-60). Morman does not specifically disclose an APAO based adhesive containing a tackifier and an antioxidant. Karandonos, however, teaches an APAO based adhesive for use in diapers comprising 1 to 25% by weight of tackifier and a small amount of an anti-oxidant stabilizer (column 4, lines 20-21, and column 6, lines 23-25). Karandonos teaches the APAO based adhesive comprising propylene copolymerized with 1-butene (example 10). Since the adhesive composition of Karandonos is similar to the adhesive composition of the present invention, the Brookfield viscosity would be inherently present because like material has like property. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use an adhesive composition as

described by Karandinos for bonding the film and the nonwoven web of Morman motivated by the desire to achieve an adhesive bond of sufficient strength between the film and nonwoven web (see Karandino, column 5, lines 55-57).

Morman as modified by Karandinos does not specifically disclose a peel strength and no burn-through visual defects. However, it appears that the bonded structure of Morman as modified by Karandinos meets all the structural limitations as set forth in the claims, a water-impermeable thermoplastic film, a spunbonded web and an adhesive with a composition similar to the composition of the adhesive of the present invention, it is the examiner's position that the peel strength and no burn-through visual defects would be inherently present. Like material has like property. This is in line with *In re Spada*, 15 USPQ 2d 1655 (1990).

8. Claims 7 and 8 are rejected under 35 U.S.C. 103(a) as being unpatentable over Morman et al (US 6,632,212) in view of Karandonos (US 6,627,723) as applied to claim 1 above, further in view of Suzuki et al (US 5,763,333). Neither Morman nor Karandonos teaches or suggests the use of C5 hydrocarbon tackifier. Suzuki, however, teaches an APAO based adhesive for use in bonding a film and a nonwoven web of the diaper comprising 30 to 70% by weight of C5 hydrocarbon tackifier based on the total weight of the adhesive composition. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to use an adhesive composition as described by Karandinos for bonding the film and the nonwoven web of Morman because the



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tackifier is solid at room temperature and preferred for use with the APAO based adhesive.

**Conclusion**

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hai Vo whose telephone number is (571) 272-1485. The examiner can normally be reached on Monday through Thursday, from 9:00 to 6:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Terrel Morris can be reached on (571) 272-1478. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

*Hai Vo*

**HAI VO  
PRIMARY EXAMINER**